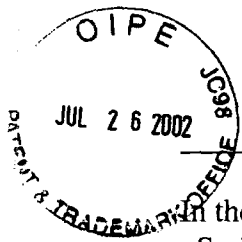


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
02 JUL 31 AM 12:18



In the Matter of Application
Serial No. 76/155,723

Mark: **KERMIT**

THE JIM HENSON COMPANY, INC.

Opposer,

v.

PEDRO TELLERIA SOPENA

Applicant.



07-26-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #61

Opposition No. 91151,872

ANSWER TO NOTICE OF OPPOSITION

Applicant, Pedro Telleria Sopena ("Applicant"), in response to the Notice of Opposition filed by The Jim Henson Company, Inc. ("Opposer"), states as follows:

1. Applicant admits that it is aware of Opposer, the Jim Henson Company and its rights in the Muppet Family of Puppet Characters and of Opposer's television entertainment and motion pictures. Applicant is not aware of all of the facts alleged in paragraph 1 of the Notice of Opposition and therefore denies the remaining allegations.

2. Applicant admits that it is aware of Opposer's **KERMIT** puppet character and its use for a wide variety of entertainment products.

3. Applicant admits that it is aware of Opposer's **KERMIT** puppet character and its use for a wide variety of entertainment products.

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4. Applicant admits the allegations of paragraph 4 of the Notice of Opposition.

5. Applicant admits that Opposer has used the **KERMIT** mark in connection with Opposer's business services. Applicant is not aware of the actual quantity or quality of goodwill developed or represented by the **KERMIT** mark of Opposer and therefore denies this allegation.

6. Applicant admits that it filed an Intent to Use Application to register the mark **KERMIT** in the United States on October 27, 2000. Applicant has, however, made use of its **KERMIT** mark around the world for its services.

7. Applicant admits that Opposer has used the **KERMIT** mark in the United States in connection with its entertainment services and related goods, but Applicant has no knowledge of the exact amount of fame or notoriety developed by Opposer and therefore denies same.

8. Paragraph 8 of the Notice of Opposition contains factual allegations. Applicant denies same. The conclusions of law in paragraph 8 require no response.

9. Applicant admits that it was aware of Opposer and Opposer's **KERMIT** mark, but Applicant denies the allegations regarding Opposer's right to the **KERMIT** mark.

10. Paragraph 10 of the Notice of Opposition contains conclusions of law and therefore no response is required.

FIRST AFFIRMATIVE DEFENSE

The Notice of Opposition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Applicant's services are completely different from any service offered by Opposer.

THIRD AFFIRMATIVE DEFENSE

There is no likelihood of confusion because the parties are offering dissimilar services to different classes of consumers through different channels of trade.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed with prejudice and its costs be awarded against Opposer.

Respectfully submitted,

~~HOLLAND & KNIGHT LLP~~

By: 

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(202) 955-3000

Counsel for Applicant

Dated: July 26, 2002

CERTIFICATE OF SERVICE

I hereby certify that this Answer to Notice of Opposition is being served by first class mail, postage prepaid, to the person listed below, at his said address this 26 day of July, 2002:

Lisa Pearson, Esq.
Fross Zelnick Lehrman & Zissu, P.C.
866 United Nations Plaza
New York, New York 10017

A handwritten signature in dark ink, appearing to read 'T. W. Brooke', is written over a horizontal line.

Thomas W. Brooke